IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 35458 of 2007(U)

PETITIONER:

B.S.JAYAKUMAR, AGED 51 YEARS,
S/O.BHASKARAN NAIR, AT PRESENT WORKING
AS SUPERINTENDING ENGINEER, KOZHIKKODE
CORPORATION, KOZHIKKODE.

BY ADV. SRI.K.K.CHANDRAN PILLAI
SRI.SAJI SANKARAN NAIR

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY, LOCAL ADMINISTRATION DEPARTMENT, (LSGD), GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

2. **KOZHIKKODE CORPORATION, REPRESENTED BY ITS SECRETARY, KOZHIKKODE.**

3. **THE DIRECTOR OF URBAN AFFAIRS DEPARTMENT, THIRUVANANTHAPURAM.**

4. **THE DIRECTOR, VIGILANCE AND ANTI CORRUPTION BEAURAU, THIRUVANANTHAPURAM.**

BY SRI.P.V.KUNHIKRISHNAN,SC,KOZHIKODE CORPN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2007 ALONG WITH WPC.NO.35486 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

V.GIRI,J.

W.P (C) No. 35458 & 35486 of 2007

Dated this the 30h November, 2007

J U D G M E N T

The petitioner in W.P (C) 35458 of 2007 is working as Superintending Engineer and the petitioner in W.P (C) No.35486 of 2007 is working as Town Planning Officer. Exhibit-P1 memos of charges were issued against the petitioners alleging that by reason of their negligence loss to the tune of Rs.1,25,86,300/- has been caused to the Kozhikode Corporation. Exhibit-P3 reply was submitted by the petitioners. Final order in the disciplinary proceedings was passed by the Government as Exhibit-P4 imposing a punishment of barring of one increment without cumulative effect for three years. The Government also directed under Exhibit-P7 that loss caused to the Corporation be recovered from the officials

2. Petitioners have preferred Exhibit-P5 review petition under the Kerala Civil Service (CC &A) Rules, 1960 before the Government. Pending disposal of the same Exhibit-P6 order has been issued by the Director apparently in consequence of Exhibit-P4. It is in these circumstances that the petitioners have approached this Court.

After having heard the learned counsel for the petitioner and the learned standing counsel for the Corporation, I am of the view that Exhibit-P5 is to be disposed of by the 1st respondent within a time frame. Since Exhibit-P5 invokes statutory powers of the Government, it is appropriate that the enforcement of Exhibit-P6 be subject to the decision to be taken by the Government, on Exhibit-P5.

In the result, this writ petition is disposed of directing the 1st respondent to consider and pass orders on Exhibit-P5 in accordance with law, after hearing the petitioners and a representative of the 2nd respondent Corporation within a period of four months from the date of receipt of a copy of this judgment. Enforcement of Exhibit-P6 will be kept in abeyance, pending orders on Exhibit-P5 in the manner aforementioned. The contentions raised by the petitioners as against Exhibit-P6 independent of those taken up in Exhibit-P5 review, are left open and petitioners will be free to agitate the same, if necessary, subsequent to the disposal of Exhibit-P5.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007